

Order

**Michigan Supreme Court
Lansing, Michigan**

March 9, 2011

Robert P. Young, Jr.,
Chief Justice

141559-60

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

THOMAS LaMEAU, Personal Representative of
the Estate of John M. Crnkovich, Deceased,
Plaintiff-Appellee,

v

SC: 141559-60
COA: 290059, 292006
Oakland CC: 07-083761-NO

CITY OF ROYAL OAK, ELDEN DANIELSON,
and BRYAN WARJU,
Defendants-Appellants,
and

DETROIT EDISON COMPANY and GAGLIO
PR CEMENT CORPORATION,
Defendants-Appellees.

On order of the Court, the application for leave to appeal the July 13, 2010 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other preemptory action. MCR 7.302(H)(1). The parties shall submit supplemental briefs within 42 days of the date of this order addressing: (1) whether the presence of the anchored guy wire at issue in this case was a breach of the City of Royal Oak's duty to keep the sidewalk in "reasonable repair" under MCL 691.1402; (2) if so, whether the exclusion to the highway exception for "utility poles" found at MCL 691.1401(e) removes the wire from the highway exception; (3) the significance of the fact that the sidewalk was not opened for public travel by the public defendants and was meant to be barricaded against public use, and the fact that the public defendants in this case were aware that the barricades were regularly being set aside or removed by unknown members of the public; (4) whether the alleged conduct of the individual public defendants can reasonably be considered to constitute gross negligence; and (5) whether the alleged conduct of the individual public defendants can be considered "the" proximate cause of the decedent's injury, particularly in light of the decedent's own conduct in this case and his intoxication at the time of

injury. Cf. MCL 600.2955a. The parties should not submit mere restatements of their application papers.

The Michigan Association for Justice, Michigan Defense Trial Counsel, Inc., and Michigan Municipal League are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 9, 2011

A handwritten signature in cursive script that reads "Corbin R. Davis".

Clerk